

SAFE DISPOSAL OF MUNICIPAL WASTES IN NIGERIA: PERSPECTIVES ON A RIGHTS BASED APPROACH

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ABSTRACT

The safe disposal of municipal waste is imperative for the realisation of several fundamental human rights, most especially the right to life and the right to a healthy environment. Nigeria is a signatory to and has ratified the African Charter on Human and People's Rights (ACHPR). Ratification of the ACHPR comes with the attendant responsibility of maintaining a healthy environment. The entitlement to a healthy environment is also a constitutional right in Nigeria, albeit in a non-justifiable form. However challenges abound in the area of municipal waste management which negate the realisation, protection and fulfilment of the right to a healthy environment as enshrined in both the Constitution and the ACHPR. While rudimentary frameworks for waste disposal exist especially in the form of municipal and environmental laws and judicial remedies, poor funding, lack of modern scientific methods of waste management, treatment and disposal, the non-enforcement *cum* non-justiciability of laws and poor access to judicial remedies have resulted in the near-total failure of responsible municipal authorities to execute their mandate thus leading to an appalling state of affairs in the management of municipal solid waste in most parts of Nigeria. It may seem that the municipal authorities have contributed largely to the failure of the system by not improving capacity to meet with contemporary responsibilities. Furthermore, the prevailing piecemeal approach of treating safe disposal of wastes as an "add on" arguably demonstrates an institutional failure and inadequate understanding by authorities that without proper waste management, the realisation, protection and fulfilment of a number of social and economic human right in Nigeria will remain illusory.

This paper discusses the need for a more human rights based understanding of the need for proper management and safe disposal of municipal wastes in Nigeria. This paper analyzes the existing legal framework on

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waste management in Nigeria and elaborates on relevant provisions of law, judicial decisions and legislative interventions that support a rights-based understanding of waste management and disposal in Nigeria; and concludes by recommending positive actions and reforms that could give impetus to a more robust and efficient waste management system in Nigeria.

Keywords: Nigeria, municipal, waste disposal, environment, environmental rights.

1. INTRODUCTION

The definition of “environment” in this paper must not be restricted to the immediate habitable vicinity of human occupation and movement but must extend to the whole complex of physical, social, cultural, economic, and aesthetic factors which affect individuals and communities and ultimately determine their form, character, relationship and survival.¹ Four decades ago, the Stockholm declaration on the human environment² declared *inter alia* that that man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of quality that permits a life of dignity and well being. The importance of a healthy environment and associated rights have gained further global recognition and impetus since the 1992 Rio de Janeiro Conference.³ Many authors now believe in and have sought to establish the link between environmental protection and human rights.⁴ This has specifically led to a fusion of environmental law, which seeks to protect nature for the benefit of mankind and itself, and human rights law which centres on developing mechanisms which enable human beings and human groups to assert their rights. Thus, it can be seen that environmental rights is a child of necessity born to fuse the twin responsibilities of protecting both nature and the rights of a human population which must exist in a safe environment. The environmental angle to human rights was thus necessitated as a result of the recognition of the fact that environmental conditions affect human rights.⁵

Nationally and internationally, judicial decisions have recognised the link between the environment and fundamental human rights such as the right to life.⁶ Tribunals have held that failure of government to preserve

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- 1 John G. Rau and David Wooten (eds), *Environmental Impact Analysis Handbook* (McGraw-Hill 1980), pg 12
 - 2 See: UN Doc A/Conf48/14/Rev.1, (1972) available online at: <<http://www.unep.org/Documents.Multilingual/Default.asp?documentid=97&articleid=1503>> [The Stockholm Declaration] (assessed 12 May 2014)
 - 3 United Nations, Rio Declaration on Environment and Development, UN Doc.A/CONF.151/26 (vol.1), 12 August 1992, <http://www.un.org/documents/ga/conf151/aconf15126-annex1.htm> (assessed 12 May 2014)
 - 4 See A Boyle, ‘Human Rights and the Environment: Where next?’ (2012) 23 EJIL 613
 - 5 See Article 24, African Charter on Human and Peoples’ rights, Principle 1, Declaration of the United Nations Conference on the Human Environment. See also: Nnamdi Ikpeze, ‘Selective Justifiability as Injustice: An Examination of Citizens’ Rights to a Healthy Environment under the Constitution of the Federal Republic of Nigeria 1999(as amended)’ (2013) 6 (2) Confluence Law Journal 76
 - 6 *Gabcikovo- Nagymaros (Hungary / Slovakia)* [1998] 37 ILM 162, 206, *Jonah Gbemre v. Shell* Unreported Suit No: FHC/B/CS/53/05 (Nigeria), *Shubash Kumar v. State of Bihar* AIR 1991 SC (India) 420.

environmental quality was a violation of the fundamental right to life and that the right to life is not limited to the protecting against arbitrary killing but that the right to life is in many ways dependent on the physical environment.⁷ The synergy between a healthy environment and the right to life has also been recognised by the European Court of Human Rights in many cases.⁸

Environmental pollution caused by municipal waste generally assaults the environment in Nigeria. Residential and commercial districts suffer in equal measure over non-disposal of municipal waste in many cities all over Nigeria. Nigeria is one of the most populous nations in the world and the most populous nation in Africa. With a thirty-six state and federal capital territory structure, there are in existence thirty-seven capital cities in Nigeria, numerous urban areas and semi-urban areas. There is the problem of generation of vast amounts of waste daily as a result of human and industrial activities⁹ without the corresponding adequate and in some cases, no measures at all to handle the inevitable waste disposal responsibility that follows.

Many constituent states in Nigeria have faced difficulties in dealing with waste and have mountains of refuse in many locations thus making the environment very unhealthy and affecting the quality of life in those areas. This also poses a danger to other unseen aspects of the environment such as groundwater resources. Presently, businesses and private homes in many parts of the country rely fully or partially on private waste management outfits to effectively dispose of waste.¹⁰ Waste management is still mostly archaic with dumpsites still widely in use¹¹ lending little or no emphasis to recycling; this paper shows that there is an acute failure of the waste management system generally in Nigeria. Thus it argues that existing methods for waste management are no longer adequate to handle the waste management responsibility and also that the government departments concerned with waste disposal are under-funded and underequipped to wage war against the ugly menace and finally, that there is no guaranteed system of reme-

7 *Yanomami* Case, Rep. No. 12/85, case 7615 (Brazil).

8 For instance, the *Lopez Estra case*, ECHR (16798/1994).

9 O.S. Amuda *et al* 'Challenges and Possible Panacea to the Municipal Solid Wastes Management in Nigeria'(2014) 6 *Journal of Sustainable Development Studies* 67, see also Uwadiogwu B.O and K.E. Chukwu, 'Strategies for Effective Urban Solid Waste Management in Nigeria'(2013) 9 *European Scientific Journal* 296.

10 Uwadiogwu & Chukwu, *ibid* at 298.

11 A.J. Oloruntade *et al*, 'Municipal Solid Waste Collection and Management Strategies in Akure, South-Western Nigeria' (2013) 11 *Caspian Journal of Environmental Science* 5.

dies when municipal authorities have failed to execute their mandate with respect to waste management or disposal. It argues that efforts to regulate waste management have resulted in a multitude of legislations but however that the regulatory framework is in disarray and suggests a comprehensive overhaul of the existing system and the formulation of a comprehensive national plan in respect of municipal waste management.

Furthermore, legal and judicial remedies in the event of failure of government agencies to exercise regulatory powers are impeded by constitutional provisions¹² which prevent the exercise of legal options by aggrieved citizens or institutions. Many Nigerians often declare in response to shocking environmental pollution incidents or disasters that such events violate their rights to a clean environment.¹³ Incidentally, when it comes to the enforcement of rights contained under Chapter II of the Constitution¹⁴ such as environmental rights, the issue of *locus standi* has always been a problem for citizens where the cause of action lies in the realm of public law as strict application of *locus standi* rules and issues of justiciability have always led to failure of environmental cases.¹⁵

The result is a complex administrative and institutional web that continues to treat the safe treatment, disposal and management of wastes in Nigeria as a privilege or “add on”. Citizens are forced to gather and manage their own wastes at their own cost and expense, and when they face the wall, they are unable to obtain legal remedies in court due to complex procedural barriers. This piecemeal approach to waste management is arguably a reason Nigeria is ranked as one of the dirtiest nations on earth, with a comparably low life expectancy rate.¹⁶ This paper demonstrates that this piecemeal approach not only evidences administrative and institutional failure in Nigeria, it also points to inadequate understanding by authorities that without proper waste management, the realisation, protection and fulfilment of a number of social and economic human rights in Nigeria will remain illusory.

12 See. The Constitution of the Federal Republic of Nigeria 1999 as amended (CFRN) Laws of the Federation of Nigeria 2004, c C23 S.6(6)

13 Damilola Olawuyi, *The Principles of Nigerian Environmental Law* (Business Perspectives 2013) 195.

14 CFRN (n12)

15 See. Chinda and 5 ors. V. Shell BP [1974] 2 RSLR 1, see also *Oronto-Douglas v. Shell Petroleum and Development Company Ltd*, Unreported Suit No FHC/CS/573/93 of 17/2/97

16 The City of Ibadan is currently ranked as the dirtiest city in the world. The life expectancy rate in Nigeria (47 years) is currently one of the lowest in the world. See O Adeyemi, ‘Waste Management in Contemporary Nigeria: The Abuja Example’ (2011) 2 (2) *International Journal of Politics and Good Governance*. See also “Life Expectancy in Nigeria is 17th lowest in the World” (The Punch Newspaper) <<http://www.punchng.com/news/life-expectancy-in-nigeria-17th-lowest-globally-report/>> accessed 12 May 2014.

This paper discusses the need for a more human rights based understanding of the need for proper waste management and safe disposal of municipal wastes in Nigeria. This paper analyzes the existing legal framework on waste management in Nigeria and elaborates on relevant provisions of law, judicial decisions and legislative interventions that support a rights-based understanding of waste management and disposal in Nigeria; and concludes by recommending positive actions and reforms that could give impetus to a more robust and efficient waste management system in Nigeria.

This paper is divided into five parts, this introduction being the first. Part two provides background knowledge on the nature and scope of waste disposal and management; while part three provides an exposition of the relevant provisions of law, judicial decisions and legislative interventions that support a rights-based understanding of waste management and disposal in Nigeria; part four discusses the need for a more rights-based reform and understanding of waste management as a pre-requisite for the enjoyment of fundamental human rights in Nigeria. The paper concludes in part five.

2. WASTE DISPOSAL AND MANAGEMENT: A BACKGROUND

Municipal waste management is the collective process of sorting, storage, collection, transportation, processing, resource recovery, recycling and disposal of waste.¹⁷ There are in existence, many methods for waste disposal and management in Nigeria. Regulation in Nigeria is ubiquitous but has not helped to achieve excellence in waste management and disposal. In many places and cities, waste disposal and management is still indiscriminate with wastes dumped on roadsides, in drainage channels and gully erosion sites, this is quite apart from the small efforts made by families to clean up their immediate surroundings, and the fact that practically all states have regulations that set apart at least one day of the month for “general clean-up”¹⁸ and have laws creating offences from non-compliance with these regulations. There are also the various waste management institutions¹⁹ existing in the states with enabling laws to guide operations in waste management and in some cases, recycling.²⁰ For instance in Ondo

17 B. Abila and J. Kantola ‘Municipal Solid Waste Management Problems in Nigeria: Evolving Knowledge Management Solutions’ (2013) 7(6) *International Journal of Environmental, Earth Science and Engineering* 12

18 Oloruntade *et al*, ‘municipal solid waste collection and management strategies in Akure’ (n 11) 6

19 B. Abila and J. Kantola ‘Municipal Solid Waste Management Problems in Nigeria’ (n 17) 13

State, there is both the Ondo State Waste Management Agency (OSWMA) which tackles the challenge of disposal of Municipal Wastes and the Ondo State Integrated Wastes Recycling and Treatment Project (OSIWRTP) which deals with recycling etc. The efforts of a plethora of private enterprises and waste-pickers involved in waste management²¹ cannot be ignored as these have contributed immensely to improve waste management in Nigeria as Private enterprises and waste-pickers are also involved in waste recycling.

However, the common methods of municipal waste disposal in Nigeria still remain: open dumping, open burning, incineration, unregulated landfills, composting, and dumping into drain channels, streams and rivers. Municipal waste management has therefore become the greatest problem facing many urban and semi-urban areas in Nigeria.²² While the oldest identifiable problem is that the rate of waste collection and evacuation often lags behind the rate of waste generation thus resulting in solid waste accumulation,²³ the current problems include funding,²⁴ that government agencies also engage in unacceptable waste disposal practices²⁵ and that Nigeria is generally not investing adequately in modern waste management technologies such as recycling facilities or plants.

3. LEGAL FRAMEWORK ON WASTE MANAGEMENT IN NIGERIA

Municipal waste is a primary source of environmental hazards and as will be seen below, the regulatory regime for protection in this area has received special treatment in Nigeria. Yet the question that remains is, whether the regulatory framework in Nigeria is capable of addressing the challenges posed by growing rate of waste generation? There are many Statutes and agencies regulating waste disposal and management in Nigeria. The

20 For example, the Lagos State Waste Management Authority (LAWMA).website: www.lawma.gov.ng

21 O.O. Adebola, 'The Roles of Informal Private Sector in Integrated Solid Waste Management in the Achievement of Millennium Development Goals(MDG's) in Lagos Nigeria' (Solid Waste, Health & Millennium Development Goals, CWG-WASH Workshop, Kolkata, 2006)

22 A.J. Oloruntade *et al*, 'Municipal Solid Waste Collection and Management Strategies in Akure' (n 11) p.1

23 Uwadiogwu & Chukwu, 'Strategies for effective urban solid waste management in Nigeria' (n 9) 296

24 V.I. Ogu, 'Private sector participation and municipal waste management in Benin City, Nigeria' (2000) 12 (2) Environment and Urbanization 103-117

25 See. www.nanngronline.com/section/general/nafdac-destorys-expired-drugs-in-specialist-hospital see also. www.shipsandports.com.ng/2013/news/Disposal-of-smuggled-poultry-products-by-customs-Where-does-the-danger-lie-Shulamite-Foyeku.php

agencies include: The National Environmental Standards Regulatory And Enforcement Agency(NESREA); Federal Ministry of Environment; States' Ministries of Environment; Ministry of Water Resources; Lagos State Waste Management Authority (LSWMA) and other various states waste management authorities; States' Environmental Protection Agencies such as the Lagos State Environmental Protection Agency (LASEPA); and States' Waste Disposal Boards such as the Lagos State Waste disposal board (LSWDB).

The legal regime on waste management in Nigeria include:

a. The Constitution of the Federal republic of Nigeria (CFRN) 1999²⁶ (as amended)

The CFRN provides that government shall protect and improve the environment and safeguard the water, air and land of Nigeria.²⁷ this provision is however contained in Chapter II of the CFRN which sets out the fundamental objectives and directive principles of state policy which are unfortunately non-justiciable.²⁸

b. The NESREA Act 2007²⁹

This is currently the principal legislation on environmental protection in Nigeria. The Act establishes the National Environmental Standards Regulatory and Enforcement Agency (NESREA) which replaced the Federal Environmental Protection Agency (FEPA). The NESREA is now the main agency which is mandated to enforce compliance with environmental laws, both local and international, on environmental sanitation and pollution prevention and control through monitoring and regulatory measures and to make regulations on air and water quality, effluent limitations, control of harmful substances and other forms of environmental pollution and sanitation.³⁰ Unfortunately, the agency, is excluded from exercising its powers in the oil and gas sector.³¹

26 Laws of the Federation of Nigeria 2004, c C23

27 Ibid s.20

28 Ibid S.6(6)(c)

29 Laws of the Federation of Nigeria 2004, c N164, published in Official Gazette No.92. Vol. 94 of 31st July, 2007

30 See The National Environmental Standards and Regulatory and Enforcement Agency(Establishment) Act of 2007 Ss. 7-8

31 Ibid , s.7 (g), (h), (j), (k) and (l), see also Damilola Olawuyi, *The Principles of Nigerian Environmental Law* (Business Perspectives 2013) 34.

*c. Environmental Impact Assessment Act of 1992*³²

This Act makes it compulsory for development projects with potential environmental effects to undergo an environmental impact assessment before commencement. It prohibits the commencement of projects which may significantly affect the environment without first considering the environmental effects³³ where a project may likely result in unjustifiable, immitigable, and significant adverse effects on the environment, the project shall not be permitted.³⁴

*d. National Environmental (base metals, iron and steel manufacturing / recycling industries sector) Regulations 2011*³⁵

This regulation is aimed at preventing and minimizing pollution in the Nigerian environment from operations and ancillary activities of the sector.³⁶ Up to date efficient “cleaner production technologies” are expected to be applied by new facilities, corporations and organizations in the sector in order to reduce pollution as far as practicable.³⁷ Every facility, corporation or organization is mandated to ensure the adoption of the 5R’s which are: Reduce, Repair, Reuse, Recycle and Recover in the management of scraps generated in the course of production.³⁸

*e. The Harmful Wastes (Special Criminal Provisions, etc.) Act*³⁹

The Act, promulgated originally as a decree was Nigeria’s first legislative intervention following the Koko dumping incident. It imposes criminal liability on unauthorized dumping of harmful wastes on land, or in Nigerian waters. It provides that it is an offence for anyone not so authorized to carry, deposit, dump, import, sell, offer for sale, negotiate or purchase any harmful waste on any land, territorial waters, contiguous zone, exclusive economic zone or inland waterways of Nigeria.⁴⁰

32 Laws of the Federation of Nigeria 2004, c E12

33 *ibid* s.2

34 *ibid* s.30

35 LFN Laws of the Federation of Nigeria 2004, c N164

36 Regulation 1

37 Regulation 3(2)

38 Violet Aigbokhaevbo, ‘Environmental Abuses in Nigeria: Sectoral implications For Reproductive Health Care’ Maiden edition NIALS Journal of Health Law and Policy 187

39 Laws of the Federation of Nigeria 2004, c H1

40 *ibid* S.1

f. The National Policy On the Environment

The National Policy on the environment is Nigeria's roadmap to environmental sustainability. It states Nigeria's commitment to sustainable development based on proper management of the environment. Its goals include *inter alia*; to secure an environment adequate for health and well-being.⁴¹ Strategies to achieve its objectives include measures, such as the establishment of adequate environmental standards, monitoring and evaluation of changes in the environment, publication of environmental data, prior environmental impact assessment of proposed activities and employing environmentally friendly technologies in natural resource management etc.

g. Regulations at states' level:

ncluding but not limited to the Lagos State Waste Disposal Law, Lagos State Environmental Protection Agency (LASEPA) Law, Lagos State waste Management Authority (LAWMA) Law

h. National Environmental (Sanitation and Wastes control) Regulations, 2009⁴²

The regulations are structured into seven parts, with eighteen schedules, and with wide application to issues of environmental sanitation and particularly to food, market, and industrial wastes and sanitation, the different categories of wastes therein generated with special reference to community, end-of-life, hazardous, healthcare, industrial, radioactive, leaf and yard, solid and packaging wastes.⁴³ The various parts deal with general environmental sanitation matters such as general cleanliness, duties of owners and occupants of premises, citizens' obligations, extended producers responsibility, the Polluter-Pays Principle⁴⁴ which is based on the simple notion that everyone should be responsible for cleaning up his own waste. The principle holds the polluter who creates an environmental harm liable to pay the cost

41 Ibid. 44

42 Statutory Instrument No.28 2009

43 M.T. Ladan, 'Review Of NESREA Act 2007 And Regulations 2009-2011: A New Dawn In Environmental Compliance And Enforcement In Nigeria' [2012] 8(1) LEAD 130 <<http://www.lead-journal.org/content/12116.pdf>> assessed 18 May 2014

44 Ibid (n 44) Regulations 3-22,

of remedying the harm and to compensate the victims of the pollution).⁴⁵

The regulations also make provisions inter alia for control of solid waste, effluent discharge and hazardous and healthcare wastes.⁴⁶ The regulations also provide that no person is to discard, or otherwise dispose of litter and refuse anywhere except in designated litterbins. Owners, operators, occupants or persons managing or controlling any premises are not to allow the release of litter or refuse into the environment.⁴⁷ In fact, even occupants of vehicles plying Nigerian roads are statutorily prohibited from littering the public places, highways or any road at all.⁴⁸

More importantly, the agency (NESREA) is to ensure the implementation of the National Environmental Sanitation Policy and Guidelines of 2005 at all levels of government⁴⁹ and encourages strategic cooperation and collaboration among all tiers of government.⁵⁰ The regulations also recognise the need for penalising offenders⁵¹ and the need for harmonisation of intervention programmes⁵²

4. PROSPECTS AND CHALLENGES OF RIGHTS BASED UNDERSTANDING ON MUNICIPAL WASTE MANAGEMENT IN NIGERIA.

There is no doubt that Nigeria is blessed with abundant human and capital resources and can provide a desirable environment with the existence of political will. There is also a plethora of statutes that play an important role in the fight against municipal waste. Therefore it is safe to posit that the future is not bleak. However, it is also important to bring to the fore, prospects and challenges.

With relation to prospects, in a sustained democracy, commitment to the promotion, protection and enforcement of human and socio-economic rights is expected from government at all levels. Indeed the present democratic dispensation has seen government demonstrating a reasonable level

45 See Article 2(2)(b) Convention for the protection of the Marine Environment in the North-east Atlantic (OSPAR Convention), see also; Alexandre Kiss, *Introduction to International environmental Law*, 2nd ed.(Geneva: UNITAR, 2005) 80 see also Olawuyi D.S. 'The Principles of Nigerian Environmental Law' (Business Perspectives 2013) 229

46 Ibid (n 44) Regulations 23-62

47 Ibid (n 44) Regulation 3

48 S. 5 NESREA Act

49 Ibid (n 44) Regulation 63

50 Ibid (n 44) Regulations 63-65

51 Ibid (n 44) Regulations 66-104

52 Ibid (n 44) Regulation 105

of commitment to environmental issues.⁵³This will definitely translate to a better environment for all Nigerians. It is also a fact that private sector participation in the municipal waste management system has brought improvements and that continued participation of the private sector may eventually bring about lasting solutions to the problems of waste disposal and management in Nigeria.⁵⁴

However, challenges abound. A major challenge is the fact that the Constitution itself⁵⁵ has rendered the constitutional provisions for protection of and promotion of a healthy environment favourable to life⁵⁶ non-judicial.⁵⁷ This provision of the constitution continues to exist despite the fact that Nigeria has ratified the ACHPR.⁵⁸ Secondly, Nigeria has failed to demonstrate the political will needed to amend the constitution in order to bring it in line with Nigeria's international obligations flowing from the ratification of the African Charter. Indeed, though some learned authors posit that the Act⁵⁹ is inferior to the constitution, it is my submission that such an argument is flawed because unlike municipal laws, the African Charter (Ratification and Enforcement) Act⁶⁰ is a statute that flows from Nigeria's international obligations under the Charter. Every country (state) in international law is deemed to relinquish some sovereign powers when they agree to be bound by international instruments. This is because when states subject themselves to regional laws of a community of states to which they belong, and such community of states makes laws for the benefit of all members, then states must have implied limited their sovereign rights albeit within limited fields⁶¹ and the regional laws constitute a new legal order for the benefit of which the states have limited their sovereignty.⁶²

The argument may be advanced that according full recognition to the regional law despite incompatible constitutional provisions may amount to

53 Through for instance, the establishment of NESREA

54 M. K. Alakinde, 'Private Sector Participation and Sustainable Solid Waste Management in Ibadan South West Local Government, Nigeria' (2012) 3(6) *Journal of Emerging Trends in Economics and Management Sciences* 890-891

55 See. The Constitution of the Federal Republic of Nigeria 1999 as amended (CFRN) Laws of the Federation of Nigeria 2004, c C23 S.6(6)

56 *Ibid* (n 57) S.20

57 *Ibid* (n 57) see generally also; Nnamdi Ikpeze, *op.cit* 67,79

58 see the African Charter (Ratification and Enforcement) Act. Laws of the Federation of Nigeria 2004, c A9

59 *ibid*

60 Laws of the Federation of Nigeria 2004, c A9

61 See. *Flaminio Costa v ENEL* ECJ/6/64

62 *Van Gend en Loos v Nederlandse Administratie der Belastingen* 1963 case 26/62

an invasion of the supremacy of the constitution⁶³. Such an argument must be based on a misconceived premise because in principle, the Nigerian constitution must permit the application of regional laws as it is the duty of courts to override any law found to be inconsistent with any directly enforceable rule of regional law.⁶⁴ The Supreme Court found this much when it agreed that “the African charter possesses a greater vigour and strength” than any other domestic statute.⁶⁵ This is consistent with a cardinal principle of Nigerian domestic law that on account of the unique character and diversity of our constitution, courts should endeavour to find solutions to constitutional questions within the constitution through its interpretation and on the interpretation and construction of other constitutions and statutes which are *in pari materia* with relevant provisions of our constitution.⁶⁶

Another challenge is the lack of full national coverage by the National Environmental Standards and Regulatory Agency (NESREA) in order to promote environmental standards and to exercise its Mandate effectively. Presently, the NESREA maintains offices in six geo-political zones and some 22 states.⁶⁷ The third challenge is that most public waste management agencies are under-staffed and ill-equipped. Furthermore, application of scientific methods and modern technology is almost non-existent in the waste management sector of Nigeria. Open landfills in locations not too distant from cities which are presently ubiquitous may result in environmental hazards in the near future especially as these landfill sites are not regulated or monitored properly.⁶⁸

63 E. P. Amechi, ‘Litigating right to healthy environment in Nigeria: An Examination of the Impacts of the Fundamental Rights (Enforcement Procedure) Rules 2009, In Ensuring Access to Justice for victims of environmental degradation’ [2010] 6(3) LEAD 327 < <http://www.lead-journal.org/content/10320.pdf> > assessed 5 May 2014

64 Such as the African Charter by virtue of fact that it has been domesticated vide the African Charter (Ratification and Enforcement) Act. Laws of the Federation of Nigeria 2004, c A9, see also *Abacha V. Fawehinmi*.

65 *Ibid.*

66 *Ogugu & ors. V. The State* [1994] 9 NWLR (pt. 366) p. 1

67 <<http://www.nesrea.gov.ng/partnership.php>> (last accessed 5 May 2014)

68 *Uwadiogwu & Chukwu*, ‘Strategies for effective urban solid waste management in Nigeria’ (n 9) 301.

5. RECOMMENDATIONS

There is no doubt that relevant legislation and sanctions exist for regulating municipal waste management in Nigeria. Despite the existence of these regulatory statutes and agencies, waste management has remained a challenge and the environment has continuously been subjected to abuse, thus negatively impacting the right to a healthy environment.

To achieve sustainable waste management practices in Nigeria, first it is recommended that the constitution of the Federal Republic of Nigeria 1999 (as amended) should be further amended to make the right to a healthy environment justiciable and to be in line with the provisions of the African charter on Human and Peoples' Rights and the African Charter (Ratification and Enforcement) Act⁶⁹. This will enable citizens to better enforce their environmental rights through the courts and in the long run make the waste management agencies more effective. Secondly, an aggressive enlightenment campaign in improved solid waste management methods for Nigerian citizens should be organised by government (or its agencies) at all levels in Nigeria.

Thirdly, the NESREA and the various states' waste management outfits as presently constituted cannot effectively cope with the responsibility of effective waste management and therefore, there is the need for private sector participation and partnership to bring new human and technological investments and drive change in the waste management sector. Furthermore, law enforcement agencies such as the National Agency For Food and Drug Administration and Control (NAFDAC) and the Nigerian Customs Service should be enlightened to adopt best practices in the disposal of confiscated materials. Fourthly, funding and human resource development efforts should be improved for the agencies concerned with waste management in Nigeria. Furthermore, the employment of scientific techniques and technologies is necessary for dealing with municipal solid waste and landfill sites should be developed in accordance with international best practices.

Finally, the provisions of environmental statutes should be more stringently enforced and offenders should be subjected to penalties which should effectively serve as a deterrent to would be offenders.

69 Laws of the Federation of Nigeria 2004 c A9

6. CONCLUSION

This article set out to discuss the need for a more human rights based understanding of the need for proper waste management and safe disposal of municipal wastes in Nigeria. The existing legal framework was analyzed and relevant provisions of law, judicial decisions and legislative interventions were elaborated upon in support of a rights-based understanding of waste management and disposal in Nigeria. Recommendations have also been made on positive actions that can give impetus to the improvement of the system generally in Nigeria.

Government at all levels in Nigeria should therefore be mindful of maintaining clean and healthy environment as a key component of sustainable development. This is because, from the much that has been stated about improving the system for waste management, it is clear from this work that the Government of Nigeria has not done enough in the area of municipal waste management. This is a major factor contributing to poor waste disposal practices. As a matter of urgency, there is the need to facilitate the rapid introduction of and education of Nigerian citizens on modern recycling and composting practices which have yet to take root in Nigeria. Equipment and infrastructure gaps need to be bridged in order to foster dependable, efficient and sustainable municipal waste management in Nigeria as the importance of provision of efficient systems of waste management cannot be over-emphasised. It is imperative that regulatory and economic instruments which could encourage sustainable public-private partnerships be stimulated and sustained. Finally, a coherent national reform policy which combines adequately streamlined legislation, fiscal provisions, public involvement, introduction and sustenance of modern scientific and technological methods and awareness in the area of municipal waste management is needed to further improve the environment.